

FOR THE DISTRICT OF DELAWARE

Michael L. Jones

Plaintiff

CA NO. 07-791-GMS

Jury trial Demanded

v

Raynard Jones and Audrey Evans
Defendants

individually and in their official capacity

Plaintiffs Response to defendants
Answer to Complaint

1. Defendant claims that Plaintiff failed to state a claim upon which relief can be granted, which is totally frivolous and without merit. Retaliation against a prisoner for filing a grievance or complaining about treatment by officials states a claim upon which relief can be granted under § 1983 42 U.S.C. 1983 Simpson v Penobscot County Sheriff's Dept. 285 F.Supp2d 75. Plaintiff claim is Retaliation.

2. Defendant claims Plaintiff has failed to exhaust his administrative remedies which is also frivolous and without merit. The Plaintiff wrote a grievance which was never answered and Plaintiff also wrote numerous personal about correctional officer Raynard Jones and his actions all complaints I wrote are inclosed in the 1983 complaint as exhibits and after the court orders the defendants to produce documents it will be well noted that Plaintiff did in fact exhaust all remedies.

3. Defendant claims this action is barred by the applicable statute of limitations which is also totally frivolous and without merit Plaintiff waited almost 6 months to file this complaint cause Plaintiff was exhausting all remedies and under 1983.42 U.S.C the statute of limitations is 2 years Plaintiff filed his complaints in mere months.

- 4 Defendant claims they are immune from liability under the Eleventh Amendment which is also frivolous and without merit at all times in Plaintiff's complaint each defendant acted under color of state law so they are not immune.
- 5 Defendant states they are entitled to qualified immunity which is also frivolous and without merit they are liable. Prison officers filing of false accusations against prisoners, when done in RETALIATION for prisoners protected conduct is actionable under § 1983 U.S.C. A CONST. AMEND 1 42 U.S.C. 1983 *Gaston v Coughlin* 81 F.Supp2d 331
- 6 Defendant claims as to any claims under state law they are entitled to immunity under the state tort Claims Act, this is also frivolous and without merit Plaintiff did not file a state tort Claim Plaintiff filed a 1983, 42 U.S.C. under the civil rights Act.
- 7 Defendant claims they are entitled to sovereign immunity as to any claims under state law which is also frivolous and without merit, under color of state law they are liable for their actions.
- 8 Defendant's claim Negligence is not a cause of action under 42 U.S.C. § 1983 this is totally frivolous and without merit cause Plaintiff claim is RETALIATION which is actionable under 42 U.S.C. § 1983
- 9 Defendant claim they are not liable in their official capacities as they are not persons is also frivolous and without merit Plaintiff claims that they are liable in their individual and official capacities under color of state law.
- 10 Defendant claim service of process was improper or insufficient this is totally without merit and frivolous defendant is just fishing for anything to have the courts say they are not liable service was proper and sufficient as sufficient by a Plaintiff with eight grade education litigating with limited means.

11. Defendant claims the Court lacks personal jurisdiction over Defendants. Plaintiff's complaint should be ~~the~~ dismissed. This is totally frivolous and without merit and ludacris, the Defendants are trying to undermine the court and the judicial system with these frivolous and fraudulent claims the defendants need to be held accountable for their wrong doing the evidence is clear, concise, and conclusive that Plaintiff was retaliated against for exercising his constitutional right. Plaintiff's complaint should be granted.

Relief

1. Defendant stated Plaintiff is not entitled to any compensatory, punitive or monetary damages. According to Damages 115 key 37(1) Punitive damages are awarded to punish and deter reprehensible conduct. Nominal damages are awarded to vindicate rights. Damages key 115(9)
2. Defendant stated the Plaintiff is not entitled to any injunctive, declaratory or other relief. Plaintiff is entitled, the defendants with sinister intent wrote a false report on plaintiff cause Plaintiff wrote complaints against him to hurt the Plaintiff and get his institutional job taken, the defendants need not be nowhere in the area as the Plaintiff, they already made one false report Plaintiff doesn't want anymore false accusation pent on him.

WHEREFORE, Plaintiff respectfully request that Judgement be entered in his favor against defendants and all their frivolous claims to undermine the court and that Defendants pay their own Attorney fees.

Respectfully Submitted.

Dated: August 30, 2008

Plaintiff

Michael L. Jones 417267

Michael L. Jones 417267

JTVCC

1181 Paddock Rd

Smyrna Del

19977

Certificate of Service

I, Michael J. Jones, hereby certify that I have served a true and correct cop(ies) of the attached: Response to defendants response to Plaintiff's 1933 complaint upon the following parties/person (s):

TO: Office of the prothonotary
United States District Court
844 N KING street Lockbox 18
Wilm Del
19801

TO: Attorney General
370 N. French Street
Wilmington Delaware
19801

TO: _____

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 30 day of August, 2008

Michael J. Jones

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